SUBCONTRACTOR/SUBAWARDEE VS. VENDOR

What is the difference and why does it matter?

What is a Vendor (Contractor)?

➢ A vendor (contractor) agreement is a legal instrument by which a non-federal entity (NAU) purchases goods or services needed to carry out the project or program under a sponsored award.

➢ Typically, agreements with vendor (contractors) for the purchase of services are subject to competitive bidding procurement practices. However, vendors are not typically subject to the terms and conditions in the sponsored award.

➢ Vendors generally have little or no independent decision-making or the design and conduct of the research work being completed.

WHAT IS A SUBCONTRACT OR SUBAWARD?

➢ A subcontract/subaward is a contract obligating an organization (subawardee) to do work for another organization as part of a larger project.

➢ A subcontract/subaward is the mechanism put in place when a ***particular capability or expertise*** required for the project is not available at the University.

➢ A subcontractor/subawardee can be also called subrecipient.

➤ Most of the work on sponsored project is conducted by faculty and staff on NAU premises. However, it is sometimes determined that a portion of the research or project need be completed by an individual consultant or entity outside of the University. In these cases, a legal agreement outlining the relationship between the parties and the University is required.

✓ The distinction must be done before the proposal is submitted
✓ Consider the attributes/factors of the activities

Characteristics usually associated with a Subcontractor/ Subawardee:	Characteristics usually associated with a Contractor ("Vendor") Agreement:
☐ is responsible for and is authorized to make programmatic decisions, e.g. has discretion as to how their portion of the work is carried	☐ acts at NAU's direction and/or provides specified services in support of the research project
☐ contributes to intellectual leadership of project (e.g., participates in the designing and/or directing of the work)	☐ has little or no decision-making in the design or conduct or the work being done, i.e. performing tasks at the direction of NAU or following instructions provided by NAU
☐ may independently publish the results of their portion of the work or serve as a co-author on the program's results	☐ personnel are generally not individually identified or are not listed as key personnel
☐ has its performance measured by whether or not its planned contribution to the prime project has been achieved	☐ has its performance measured by whether or not the assigned task is completed or goods/services are delivered
☐ personnel are identified in NAU's proposal as having key roles	☐ involvement in the project consists only of provision of a service or product which may be included in business operation reports rather than scientific articles

SUBRECIPIENT MONITORING

BEST PRACTICES

What is subrecipient Monitoring?

➢ Subrecipient monitoring describes the activities undertaken by NAU to review the financial status and management controls of a subrecipient(s) in order to mitigate the risk of contracting with a subrecipient(s).

➢ The Uniform Guidance requires pass-through entities (PTE)(i.e. NAU) to do subrecipient monitoring.

➢ Subrecipient monitoring means that NAU is required to monitor the activities of subrecipient organizations to ensure that the subaward is in compliance with applicable Federal statutes and regulations and terms of the subaward, and verify that subrecipients are audited as required by Subpart F of the Uniform Guidance.

Subrecipient Risk Analysis Category Guidelines/Examples

Category	Score = 0 (lower risk)	Score = 1 (higher risk)
Foreign vs Domestic	Domestic (US only)	All other foreign entities
Maturity of Organization	Mature	Start-up, no fiscal controls in place yet
Subrecipient Organization Type	University or Non-profit (Collegial T&Cs)	Industry organization
Award Type	Grant from federal or non-commercial source	Contracts (includes subcontracts, CTAAs)
Amount/Percentage	Lower funding levels or percentage (e.g. <$100K	Funding level >$500K or >49% of award
Accounting/Procurement Systems	Systems have been approved (existing A-133 is an indicator)	No systems are in place, or systems are new
Negotiated Indirect Cost Rate Agreement	Has detailed negotiated rate agreement	Does not have negotiated rate agreement
Audit Report	Has annual A-133 audit	Has not had an annual financial audit
Prior experience	Previous positive experience as NAU subrecipient	New subrecipient or previous negative experience as NAU subrecipient
ITAR/EAR	No export controlled activity involved	Organization or project involves ITAR (e.g. satellites, biological warfare)
Compliance (Animal/Human Subjects, DNA, stem cells)	No compliance issues involved, or exempt per IRB	A/S, H/S, or other compliance issues involved, higher risk activities
Location of Work	At subrecipient's facility	On NAU campus
NAU Sponsor Type	Non-federal organizations or routine federal award programs (NSF, NIH)	Government-Owned/Contractor Operated (e.g. national labs)
Relationship of Subrecipient PI	No relationship except collaborative/research-based	Conflict of Interest involved (e.g. family relations, PI is on Board or hold stock in organization)
Scope of Work & Deliverables	Report only	Tangible products, deliverables necessary in order to achieve project success
Advantaged Status	No claimed status (small business, HUB zone, women/minority-owned, etc.)	Two or more claims
Special Considerations	Additional information which raises risk level, e.g. high funding level, risk category requiring a higher level of scrutiny	

NOTE: If Cost Share for sub, then higher risk rate.

NB: Risk Categories are analyzed on a sliding scale, so risk levels are based on the Grant and Contract Administrator's evaluation. If the Grant and Contract Administrator has concerns with the subrecipient, the Risk Analysis score can be bumped up to the next level.

HIGH VS LOW RISK EXERCISE

University X

- Domestic
- Established accounting systems
- Has annual (single) audit
- Will perform less than 49% of required sponsored work

Institution B

- Foreign
- No annual audit
- Will perform 70% of the sponsor work
- Tangible products, pivotal to success of project

Criteria	Lower Risk	Higher Risk	Weight	Assessment 0 = low 1 = high	Weighted Score
Foreign or Domestic	Domestic	Foreign	4		0
Maturity of Subrecipient's Organization	Mature	Start-up	4		0
Organization Type	University or non-profit	Industry	4		0
Award type	Grant	Contract or Subcontract	4		0
Amount of Subgrant/Subcontract	Total cost is <$199,999	Total cost is > $200K	3		0
Percentage of NAU Award Subcontracted	Total cost is < 49%	Tot cost is > 49%	2		0
Accounting Systems Established	Yes	No	2		0
Procurement Systems	approved	Not approved / ad hoc	2		0
Negotiated Indirect Cost Rate Agreement	Yes	No	1		0
Audit Report	A-133	No Audit Report	3		0
Prior experience working with NAU?	Previous positive experience	New Subrecipient, or previous negative experience	2		0
ITAR/EAR Type of work	No	Yes	2		0
Compliance (humans, animals, stem cells)	No	Yes	2		0
Location of Work	At subrecipient's facility	International	2		0
Sponsor Type	Private or Foundation or Other University	Government Owned & Contractor Operated	3		0
Relationship of subrecipient to PI and potential for conflict of interest	No existing or former relationship to PI	PI's relative	2		0
SOW & Deliverables	Report only	Tangible products; pivotal to success of project	4		0
"Advantaged" status claimed?	Not small business, HUB zone, etc.	Yes	1		0
Special Considerations: up to an additional 8 points; e.g. high $					

Low < 25

High = or > 25

Bumped to Next Level? Yes_____ or No_____   (check one)

Total Risk Score: 0.0

ANSWER…

- Which institution is the high risk and which institution is the low risk?

    A: Based on the criteria, University X is the low risk and institution B the high risk.

Some Monitoring Obligations

Monitoring Tasks   **Responsible Party**

Monitoring Tasks	Responsible Party
Review Subcontractors/Subawardees Technical Performance Reports	PI
Review Subcontractors/Subawardees invoices and expenses relative to budget	PI and/or Dept.
Ensure that performance on project and expenses per invoice align	PI and/or Dept.
Communicate to OSP instances of Subcontractors/Subawardees non-satisfactory performance	PI
Communicate to Sponsor instances of Subcontractors/Subawardees non-compliance with prime award	OSP
Report the subrecipient information in the FFATA Sub-Award Reporting System on all Federal grants of $25,000 and over.	OSP

PARTICIPANT SUPPORT COSTS

FACTORS OF CONSIDERATION FOR DEFINING AND BUDGETING PARTICIPANT SUPPORT COSTS

THE UNIFORM GUIDANCE DEFINITION

➢ Participant support costs, as defined in the Uniform Guidance (2 CFR 200.75) means: direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (i.e. not **_NAU_** employees) in connection with conferences or training projects.

THE NSF DEFINITION

- Participant support costs are defined by the National Science Foundation (NSF) as: *"direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with NSF-sponsored conferences or training projects."* Any additional categories of participant support costs other than those described in 2 CFR § 200.75 (such as incentives, gifts, souvenirs, t-shirts and memorabilia), must be justified in the budget justification, and such costs will be closely scrutinized by NSF.

- To help defray the costs of participating in a conference or training activity, funds may be proposed for payment of stipends, per diem or subsistence allowances, based on the type and duration of the activity.

WHO IS A PARTICIPANT ON MY PROPOSAL?

➢ Participants may include students, scholars, and scientists ***from other institutions***, representatives from the private sector, and state or local government agency personnel.

➢ Typically, participants **do not perform work or services for the project or program**.

➢ Contact the assigned Fund Manager or Post Award Administrator for assistance in determining if a participant payment is appropriate. Further details may be found at: http://nau.edu/Research/Sponsored-Projects/YourSponsored-Project/Participant-Support-Costs

PARTICIPANTS OR NOT?

- NAU faculty who will serve as mentor on a sponsored project (NSF Grant)?

- Honorary guest speakers?

- Student helping to prepare for a conference or workshop involving participants?

WHAT COSTS ARE NOT CONSIDERED PARTICIPANT SUPPORT COSTS?

➢ Participant Support Costs do not include:

- *honoraria for guest speakers,*

- *expenses for the PI, project staff or*

- *collaborators to attend project meetings, conferences, or seminars,*

- *payments to GRAs, or*

- *payments made to research subjects as an incentive for recruitment or participation in a research project (unless is sponsored under a NIH Clinical Trial).*

➢ These costs are normally budgeted as **Other Direct Costs.**

➢ NAU employees are not considered participants therefore costs incurred for NAU employees do not qualify as Participant Support Costs (Personnel, Travel, Other Direct Costs).

Participant Support Costs should be identified within the award

➢ NSF will identify such funds as "Participant Support Costs"

➢ Other agencies may use another cost categories such as: "stipends"

➢ F&A is not allowed on Participant Support Costs

Participant Support Costs must be accounted separately from the remainder of the award budget. Re-budgeting from the Participant Support Costs category into other categories must have prior sponsor approval

Any unexpended Participant Support Costs are returned at the award closeout – and cannot be used to offset over expenditures in other categories.

DOCUMENTATION

➢ The PI and his/her project staff should be familiar with the specific requirements set forth by the sponsor, and is expected to ensure compliance with those requirements.

➢ In addition to the financial restrictions the PI must retain records detailing:

a) Criteria by which participants in the program are selected

b) Copies of applications of selected participants, with documentation as to how they meet the selection criteria

c) List of program participants and documentation of their participation in the program

NON-FEDERAL AWARDS

➢ For Non-Federal awards, Sponsor-specific and/or award-specific guidelines should be utilized to determine how participant costs should be treated.

Documentation

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This presentation will be available on the OSP website under RESOURCES within 5 days.

https://nau.edu/Research/Sponsored-Projects/Resources/PI-and-Department-Administrators-Information-Sessions/

OSP next session is scheduled for February 12, 2019, same time, same place.

Topic: Effort Reporting: What is It, and why do I need to do it?

NAU NORTHERN ARIZONA UNIVERSITY